

## REMARKS

Claims 30-34, 61-65, 67 and 69-70, 72-73 and 75-80 are pending in this application.

### I. Preliminary Remarks

As a preliminary matter, Applicants note that the previous Action necessitating a response in this matter, dated February 13, 2007, contained identical rejections and that arguments traversing the rejection were included in Applicants' August 13, 2007 Response. As the Examiner is no doubt aware, the MPEP requires that "where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of applicant's argument and answer the substance of it." MPEP § 707.07(f). The Examiner has failed to do this.

Because Applicants have not had the opportunity to address the Examiner's position with respect to her rejections, making this next Office action final is unfair to Applicants. Applicants respectfully request that, should a next Office action be sent, it not be made final and that any new Office action fully address the arguments raised in the August 13, 2007 Response and below as required by the Manual of Patent Examining Procedures.

### II. Claim Rejections

#### A. 35 U.S.C. §103 Rejections

##### 1. Claims 30, 61, 67, 69, 70, 73, 75 and 76

Claims 30, 61, 67, 69, 70, 73, 75 and 76 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dew in view of Janssen, Ludwig and Snowden. In order to further

this application towards allowance, Claim 30 was previously amended to specify that the invention comprises a device for applying multiple coatings of different marinades in overlapping layers wherein the marinade applications stations apply marinade onto the meat product conveyed by a conveyor device and rotated about a vertical axis by the meat product holder to uniformly coat the outer surface of the meat product with overlapping layers of different marinades. As this feature is neither taught nor suggested by the prior art, either alone or in combination, Applicants respectfully request that Claim 30, and additionally Claims 31-34, 61-65, 67, and 69-76 which ultimately depend from Claim 30, be allowed.

Dew teaches a method for processing food products by spraying them with water in an electric field. If desired, the water can includes additives to preserve, for example, the color or flavor of the food product. In Dew, the food products are carried by shackles connected to a conveyor chain 4. Col. 5, lines 53-54. Although Dew suggests that “any type” of conveyor can be used, there is no teaching of a conveyor for holding a meat product which is rotatable about its vertical axis; nor is there teaching of a device wherein the meat product is rotated about the vertical axis by the meat product holder while marinade is being apply to allow the product to be *uniformly* coated with overlapping layers of different marinades. Rather, Dew discloses a device wherein the two sides of the meat product facing the spray necessarily receive a greater concentration of additives than those portions of the meat product positioned parallel to the sprays.

Ludwig teaches the needle injection of solutions into *different portions* of poultry carcasses carried by a transport belt. The portions of the carcass making contact with the belt

are not, and indeed can not, be treated by the Ludwig device. Further, Ludwig teaches a device which requires that *greater concentrations of injected solution in certain regions of the carcass and lesser concentrations of injected solution at other portions of the carcass.* Ludwig, Col. 2, lines 30-33. Thus, Ludwig clearly teaches away from the instant invention wherein the meat product is rotated about the vertical axis by the meat product holder while marinade is being apply to allow the product to be uniformly coated with overlapping layers of different marinades. Thus, Ludwig is not properly used combined with Dew in an obviousness rejection.

The Action includes Snowden as purportedly teaching the use of a nozzle to provide uniform overlapping sprays of fluid. But Snowden, in fact, also teaches away from a uniform spray. At several instances, Snowden states the importance of keeping the back of the meat product in a fixed position so that it receives the brunt of the treatment of the sprayers. See, for example, Col. 2, lines 70-75 (“A bar extends through the housing for maintaining the fowl supported by the conveyor such that back portions of the fowl are directed towards the divider structure for reception of the hottest temperature steam during travel though the predetermined path.”); Col. 5, lines 2-7 (“An extremely important function of the pipe is to bear against the shackles to prevent the shackles from pivoting while traveling along the path of the conveyor, so that the back of the fowl is maintained toward the divider partition as the fowl was initially placed on the shackles. . .”); Col. 8, lines 1-4 (“Fig. 7 also illustrates another extremely important aspect of the invention whereby the back portions of the fowl are maintained in a predetermined position so as to receive the full

force of the spray medium issued from the spray nozzles. . ."); Col. 8, lines 13-15 ("The back of the fowl is directed toward the partition during its entire travel through the station."). Thus, Snowden is not properly combined with Dew nor Ludwig in an obviousness rejection.

The Action points to the conclusory statement that "the overlapping sprays of the system tend to evenly wet birds" as teaching the limitation of the present invention which includes a uniform coating of marinade on a meat product. But this statement includes no teaching on how any uniformity is achieved and, indeed, Figure 17, relied upon by the Action, illustrates the non-uniformity of the amount of spray received. As shown there, a meat product making its way through the conveyor would be receive higher concentrations of steam on its back and front than on its sides. This is consistent with the teachings cited above which require that the back of the bird remain directed toward the nozzles throughout the conveyor's path.

As neither Dew nor Ludwig nor Snowden nor Janssen, alone or in combination, teach or suggest a device for applying multiple coatings of different marinades in uniform overlapping layers Applicants respectfully traverse the rejections of Claim 30, and additionally Claims 31-34, 61-65, 67, and 69-76 which ultimately depend from Claim 30, and request that they be withdrawn.

## **2. Claims 31-33 and 62**

Claims 31-33 and 62 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dew, Ludwig and Snowden and further in view of Muschany. As stated above, neither Dew, Ludwig, nor Snowden, alone or in combination, teach or suggest a device wherein the

marinade applications stations apply marinade onto the meat product conveyed by a conveyor device and rotated about a vertical axis by the meat product holder to uniformly coat the outer surface of the meat product with overlapping layers of different marinades. Muschany does not correct this deficiency. Thus, Applicants respectfully request Claims 31-33 and 62 be allowed.

**3. Claim 34**

Claim 34 was rejected under 35 U.S.C. §103(a) as being unpatentable over Dew, Ludwig and Snowden and further in view of Evans. As stated above, neither Dew, Ludwig nor Snowden, alone or in combination, teach or suggest a device wherein the marinade applications stations apply marinade onto the meat product conveyed by a conveyor device and rotated about a vertical axis by the meat product holder to uniformly coat the outer surface of the meat product with overlapping layers of different marinades. Evans does not correct this deficiency. Thus, Applicants respectfully request Claim 34 be allowed.

**4. Claims 63 and 72**

Claims 63 and 72 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dew, Ludwig and Snowden and further in view of Vincent. As stated above, neither Dew, Ludwig nor Snowden, alone or in combination, teach or suggest a device wherein the marinade applications stations apply marinade onto the meat product conveyed by a conveyor device and rotated about a vertical axis by the meat product holder to uniformly coat the outer surface of the meat product with overlapping layers of different marinades.

Vincent does not correct this deficiency. Thus, Applicants respectfully request Claims 63 and 72 be allowed.

**5. Claims 64 and 65**

Claims 64 and 65 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dew, Ludwig and Snowden and further in view of Newman or Gorl. As stated above, neither Dew, Ludwig nor Snowden, alone or in combination, teach or suggest a device wherein the marinade applications stations apply marinade onto the meat product conveyed by a conveyor device and rotated about a vertical axis by the meat product holder to uniformly coat the outer surface of the meat product with overlapping layers of different marinades. Newman nor Gorl correct this deficiency. Thus, Applicants respectfully request Claims 64 and 65 be allowed.

**6. Claim 77**

Claim 77 was rejected under 35 U.S.C. §103(a) as being unpatentable over Dew and Ludwig and further in view of Janssen. The teachings of Dew and Ludwig have previously been discussed. Janssen teaches a conveyor device in which rotary meat product holders are utilized, however it does not include any teaching of marinade is being applied to allow the product to be uniformly coated with overlapping layers of different marinades. Claim 77 has been amended to specify a device wherein the marinade application stations are adapted to apply marinade onto a meat product conveyed by the conveyor device and rotated about the vertical axis by the meat product holder to uniformly coat the outer surface of the meat product with overlapping layers of different marinades. As Dew, Ludwig, nor Janssen,

alone or in combination, teach or suggest a device with these features, Applicant's respectfully request allowance of Claim 77.

**7. Claim 78**

Claim 78 was rejected under 35 U.S.C. §103(a) as being unpatentable over Dew in view of Ludwig and Janssen and further in view of Vincent. As provided above, neither Dew, Ludwig nor Janssen, alone or in combination, teach or suggest a device wherein marinade application stations are adapted to apply marinade onto a meat product conveyed by the conveyor device and rotated about the vertical axis by the meat product holder to uniformly coat the outer surface of the meat product with overlapping layers of different marinades. Vincent does not correct this deficiency. Thus, Applicants respectfully request Claim 78 be allowed.

**8. Claims 79 and 80**

Claims 79 and 80 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dew in view of Ludwig, Evans and Janssen. The teachings of Dew, Ludwig and Janssen have previously been discussed. Evans teaches a method for treating food products using an electrostatic process. Claim 79 has been amended to specify a device the additive application stations are adapted to apply marinade onto the meat product previously coated with adhesive agent, conveyed by the conveyor device and rotated about the vertical axis by the meat product holder to uniformly coat the outer surface of the meat product with overlapping layers of different marinades. Thus, Applicants respectfully request that Claim 79, as well as Claim 80 which depends from it, be allowed.

**PETITION FOR TWO-MONTH TIME EXTENSION**

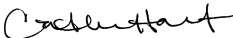
Applicants hereby petition that the period for responding to the Examiner's Action mailed on October 17, 2007 be extended for two months, up to and including March 17, 2008. The undersigned attorney has authorized the Commissioner to charge Kilpatrick Stockton LLP's AMEX account and believes no further fees are due; however, the Commissioner is authorized to debit deposit account no. 11-0855 to the extent necessary if additional fees are due.



### CONCLUSION

Applicant's Assignee believes that this application is in condition for allowance. Such action is respectfully requested. If the Examiner believes any informalities remain in the application that may be corrected by Examiner's Amendment, or there are any other issues that can be resolved by telephone interview, a telephone call to the undersigned attorney at (404) 532-6938 is respectfully solicited.

Respectfully submitted,



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